

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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**SENATE BILL 664
Finance Committee Substitute Adopted 7/23/01**

Short Title: City of Monroe Prepared Food Tax.

(Local)

Sponsors:

Referred to:

March 22, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF MONROE TO LEVY A PREPARED
FOOD TAX.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Authorization. – The Monroe City Council may, by ordinance after not less than 10 days' public notice and a public hearing held pursuant thereto, levy a prepared food tax of up to one percent (1%) of the sales price of prepared food sold within the City of Monroe at retail for consumption on or off the premises by a retailer subject to sales tax under G.S. 105-164.4(a)(1). This tax is in addition to State and local sales tax.

SECTION 1.(b) Definitions; Sales and Use Tax Statutes. – The definitions in G.S. 105-164.3 apply to this section to the extent they are not inconsistent with the provisions of this section. The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes apply to this section to the extent they are not inconsistent with the provisions of this section.

SECTION 1.(c) Exemptions. – The prepared food tax does not apply to the following sales of prepared food:

- (1) Prepared food served to residents in boarding houses and sold together on a periodic basis with rental of a sleeping room or lodging.
- (2) Retail sales exempt from taxation under G.S. 105-164.13.
- (3) Retail sales through or by means of vending machines.
- (4) Prepared food served by a retailer subject to the local occupancy tax if the charge for the meals or prepared food or drink is included in a single, nonitemized sales price together with the charge for rental of a room, lodging, or accommodation furnished by the retailer.
- (5) Prepared food furnished without charge by an employer to an employee.

- 1 (6) Retail sales by grocers or by grocery sections of supermarkets or other
2 diversified retail establishments, other than sales of prepared food in
3 the delicatessen or similar department of the grocer or grocery section.

- 4 (7) Prepared food served on a federal military reservation.

5 **SECTION 1.(d)** Collection. – Every retailer subject to the tax levied under
6 this section shall, on and after the effective date of the levy of the tax, collect the tax.
7 This tax shall be collected as part of the charge for furnishing prepared food. The tax
8 shall be stated separately on the sale document and shall be paid by the purchaser to the
9 retailer as trustee for and on account of the city. The tax shall be added to the sales
10 price and shall be passed on to the purchaser instead of being borne by the retailer. The
11 city shall design, print, and furnish to all appropriate businesses and persons in the city
12 the necessary forms for filing returns and instructions to ensure the full collection of the
13 tax.

14 **SECTION 1.(e)** Administration. – The city shall administer a tax levied
15 under this section. A tax levied under this section is due and payable to the city's
16 director of finance and administration in monthly installments on or before the 25th day
17 of the month following the month in which the tax accrues. Every retailer liable for the
18 tax shall, on or before the 25th day of each month, prepare and render a return on a form
19 prescribed by the city. The return shall show the total gross receipts derived in the
20 preceding month from sales to which the tax applies.

21 A return filed with the city's director of finance and administration under this
22 section is not a public record and may not be disclosed except in accordance with G.S.
23 160A-208.1.

24 **SECTION 1.(f)** Refunds. – The city shall refund to a nonprofit or
25 governmental entity the prepared food tax paid by the entity on eligible purchases of
26 prepared food. A nonprofit or governmental entity's purchase of prepared food is
27 eligible for a refund under this subsection if the entity is entitled to a refund under G.S.
28 105-164.14(b) or (c) of local sales and use tax paid on the purchase. The time
29 limitations, application requirements, penalties, and restrictions provided in G.S.
30 105-164.14(b) and (d) apply to refunds to nonprofit entities; the time, limitations,
31 application requirements, penalties, and restrictions provided in G.S. 105-164.14(c), (d),
32 and (e) apply to refunds to governmental entities. When an entity applies for a refund
33 of the prepared food tax paid by it on purchases, it must attach to its application a copy
34 of the application submitted to the Department of Revenue under G.S. 105-164.14 for a
35 refund of the sales and use tax on the same purchases. An applicant for a refund under
36 this subsection must provide any information required by the city to substantiate the
37 claim.

38 **SECTION 1.(g)** Penalties. – A person, firm, corporation, or association who
39 fails or refuses to file the return or pay the tax required by this section is subject to the
40 civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for
41 State sales and use taxes. The Monroe City Council has the same authority to waive the

1 penalties for a tax levied under this section that the Secretary of Revenue has to waive
2 the penalties for State sales and use taxes.

3 **SECTION 1.(h)** Use of Proceeds. – The City of Monroe must use the
4 proceeds of a tax levied under this section for the construction, operation, and
5 maintenance of a civic center, for Downtown Monroe development, and for economic
6 development.

7 **SECTION 1.(i)** Effective Date of Levy. – A tax levied under this section
8 shall become effective on the date specified in the ordinance levying the tax. The date
9 must be the first day of a calendar month and may not be before the first day of the
10 fourth month after the date the ordinance is adopted.

11 **SECTION 1.(j)** Repeal. – A tax levied under this section may be repealed by
12 an ordinance adopted by the Monroe City Council. Any repeal shall become effective
13 on the first day of a month and may not become effective until the end of the fiscal year
14 in which the repeal ordinance is adopted. Repeal of a tax levied under this section does
15 not affect a liability for a tax that attached before the effective date of the repeal, nor
16 does it affect a right to a refund of a tax that accrued before the effective date of the
17 repeal.

18 **SECTION 2.** This act is effective when it becomes law.